



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,047	12/30/2003	Roger Adrien Boutin	065517.00072	6747

27305 7590 11/04/2009
HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
----------	--------------

3634

MAIL DATE	DELIVERY MODE
-----------	---------------

11/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/748,047	Applicant(s) BOUTIN, ROGER ADRIEN	
	Examiner Jerry Redman	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/21/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-10,12-17,19-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-10,12-17,19-21 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The request filed on 9/21/2009 for a Request for Continuing Examination (RCE) under 37 CFR 1.114 is acceptable and an RCE has been established. Any previous finality is hereby withdrawn and a new action on the merits follows. Any newly-submitted claims have been added. An action on the RCE follows.

The status of the claims is as follows:

Claims 4, 11, 18, and 22 have been cancelled; and

Claims 1-3, 5-10, 12-17, 19-21, and 23-25 (newly added) are herein addressed below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

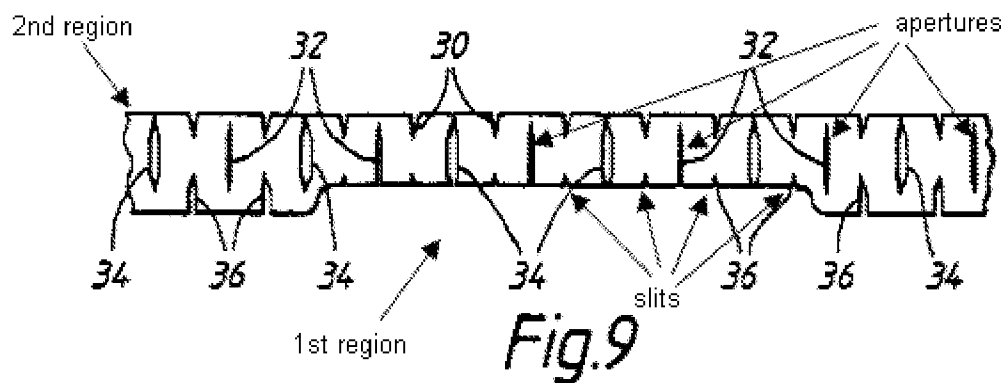
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-10, 12-17, 19-21, and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Bright et al. (5,752,345). As shown in Figures 9 or 10 (depending on how the “width” is defined, i.e., in the flattened state or U-shape), Bright et al. (5,752,345) disclose a weather strip (12) in combination with a motor vehicle (see figure 1) comprising a steel metal carrier (22) having a U-shaped cross-section (sealing flanges each side of the weather strip) having a first region having a first flexibility and repeating pattern along a longitudinal length (see figure below) and a second region having a second flexibility and a second repeating pattern along the longitudinal length

Art Unit: 3634

(see figure below), and an elastomeric material (14) disposed about the metal carrier (22) and including a tubular/hollow sealing feature (16) extending from the weather strip (12). Bright et al. (5,752,345) further disclose the first region having a plurality of slits (36) disposed along the carrier (22). Bright et al. (5,752,345) still further disclose the second region having a plurality of apertures (32) centrally located along the carrier (22) (see figure below). Bright et al. (7,752,345) still further disclose the first region and second region to have distinct flexibilities (column 4, lines 50-60). Since the U-shaped carrier, in its sealing function, has the same width throughout, both regions have the “same width” throughout. [note: the apertures (32) are spaced from each other at a first distance and the slits (34) are spaced from one another a second distance different from that of the first distance.]



The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-10, 12-17, 19-21, and 23-25 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Bright et al. (5,752,345) in view of Bonds (6,079,160) or Figure 10 of Bright et al. ('345). All of the elements of the instant invention are discussed in detail above except providing the metal carrier to have the same width (when not in a U-shaped sealing form as discussed above). Bonds ('160) and Figure 10 Bright et al. ('345) discloses a U-shaped weather strip having a metal carrier with equal width along a longitudinal axis (in both the flattened and U-shaped bent condition). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the metal carrier of Bright et al. ('345) to have the same width (in both the flattened and U-shaped bent condition) as taught by Bonds ('160) or figure 10 of Bright et al. ('345) since the carrier having the same width is cheaper to manufacture.

The applicant's arguments have been considered but are not deemed persuasive. As discussed in detail above, two different repeating regions having two different patterns of slits and apertures are disclosed. Furthermore, the applicant has again broadly added limitations which clearly read on the applicant's claimed invention as discussed in detail above. The applicant argues different flexibilities of the regions which the Examiner has also addressed (column 4, lines 50-60).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-TH from 8 to 6.

Art Unit: 3634

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jerry Redman/
Primary Examiner, Art Unit 3634